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## BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

Arizona Corporation Commission

DOCKETED

AUG 21 2008

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In the matter of )

ERIC CHARLES ZIMMERMAN (a/k/a )  
Eric Zimmerman), a married man )

and )

PENELOPE ZIMMERMAN (a/k/a Penny )  
Zimmerman), a married woman, )

Respondents. )

DOCKET NO. S-20606A-08-0397

DECISION NO. **70466**

**ORDER TO CEASE AND DESIST, ORDER  
OF RESTITUTION, ORDER FOR  
ADMINISTRATIVE PENALTIES AND  
CONSENT TO SAME  
BY: RESPONDENTS ERIC CHARLES  
ZIMMERMAN AND PENELOPE  
ZIMMERMAN**

Respondents ERIC CHARLES ZIMMERMAN and PENELOPE ZIMMERMAN ("Respondents") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order To Cease And Desist, Order for Administrative Penalty and Consent to Same ("Order"). Respondents admit the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admit nor deny the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

**I.****FINDINGS OF FACT**

1. ERIC CHARLES ZIMMERMAN (a/k/a Eric Zimmerman) ("ZIMMERMAN") is a married man who resides in Fountain Hills, Arizona.

2. PENELOPE ZIMMERMAN (a/k/a Penny Zimmerman) ("P. ZIMMERMAN") is the spouse of ZIMMERMAN and resides in Fountain Hills, Arizona. At all relevant times, P. ZIMMERMAN was the spouse of ZIMMERMAN. P. ZIMMERMAN is joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of the marital community.

3. At all times relevant, ZIMMERMAN was acting for his own benefit and for the benefit or in furtherance of the marital community.

4. ZIMMERMAN may be referred to as "Respondent".

5. ZIMMERMAN was the President of EZ CAR LEASING, INC. ("EZ CAR LEASING") until he was terminated by EZ CAR LEASING'S Board of Directors on December 11, 2007.

6. EZ CAR LEASING was an Arizona corporation whose principal place of business was Fountain Hills, Arizona. The Commission administratively dissolved the entity on April 28, 2008 for failing to appoint a new statutory agent and file an annual report.

7. ZIMMERMAN conducted the business of EZ CAR LEASING under the name EZ CAR LEASING and SALES. EZ CAR LEASING and SALES is not a registered trade name with the Arizona Secretary of State.

8. From about June 2007 through December 2007, ZIMMERMAN offered and sold unregistered securities, in the form of EZ CAR LEASING company stock, to Arizona residents.

9. ZIMMERMAN offered and sold company stock to at least five offerees and investors. ZIMMERMAN raised approximately \$120,000.

10. Although EZ CAR LEASING'S business operations continued on a limited basis after ZIMMERMAN'S termination, the company did not offer company stock for sale after ZIMMERMAN'S departure.

11. On at least one occasion, ZIMMERMAN accepted two vehicles from an offeree and investor in exchange for 250 shares of stock in EZ CAR LEASING valued at \$12,500.

1           12.     ZIMMERMAN received from offerees and investors investments in EZ CAR  
2 LEASING. ZIMMERMAN told offerees and investors to make their investments payable to EZ  
3 CAR LEASING.

4           13.     ZIMMERMAN solicited offerees and investors to purchase stock in EZ CAR  
5 LEASING through advertisements in the *Arizona Republic*. In 2007, ZIMMERMAN published at  
6 least two advertisements seeking investors for the company. Two such ads ran in June and  
7 September 2007.

8           14.     The June 2007 newspaper advertisement required a \$25,000 investment to purchase  
9 stock in EZ CAR LEASING. In exchange for their investment, offerees and investors were  
10 promised a percentage of the company's profits, an ownership interest in the business and 250  
11 shares of EZ CAR LEASING stock. The ad also represented that EZ CAR LEASING had a  
12 minimum of 35 vehicles in its inventory.

13           15.     The September 2007 ad was similar to the June ad in that it offered offerees and  
14 investors a percentage of the company's profits and an ownership interest in the business.  
15 However, the minimum investment had increased from \$25,000 to \$35, 000. The ad also stated that  
16 the company had plans to open two additional locations in October of the same year.

17           16.     ZIMMERMAN represented to offerees and investors that 1250 shares of EZ CAR  
18 LEASING stock were available for purchase.

19           17.     At the time of investing, offerees and investors entered into stock purchase  
20 agreements with EZ CAR LEASING named Business Opportunity Investment and Stock Sale  
21 Agreement ("Stock Sale Agreement"). ZIMMERMAN also gave most offerees and investors stock  
22 certificates ("certificates") to represent their ownership of EZ CAR LEASING stock. These  
23 certificates were prepared by EZ CAR LEASING'S legal counsel.

24           18.     The Stock Sale Agreement provided offerees and investors with information about  
25 EZ CAR LEASING, its stock offering and several benefits available to shareholders. The benefits  
26 included: 1) a monthly dividend disbursement (i.e. payment) of a percentage of EZ CAR

1 LEASING'S profits; 2) use of a car on the EZ CAR LEASING lot; and 3) use of EZ CAR  
2 LEASING'S sales lots and vehicle reconditioning center to sell privately owned vehicles.

3 19. ZIMMERMAN was solely responsible for the management of EZ CAR  
4 LEASING'S business and financial affairs.

5 20. ZIMMMERMAN was unable to obtain a vehicle dealer's license for EZ CAR  
6 LEASING. ZIMMERMAN did not inform investors that he was unable to obtain a vehicle dealer's  
7 license. A vehicle dealer's license was necessary to operate EZ CAR LEASING.

8 21. ZIMMERMAN represented to offerees and investors that he personally possessed  
9 the financial resources to operate EZ CAR LEASING. ZIMMERMAN also told offerees and  
10 investors that he would be responsible to provide any additional funds to EZ CAR LEASING, if  
11 necessary.

12 22. ZIMMERMAN frequently borrowed money from EZ CAR LEASING'S stock  
13 owners to pay company expenses and purchase vehicles.

14 23. The initial Stock Sale Agreements issued on or about June 2007 stated that  
15 ZIMMERMAN would solicit 32 offerees and investors to purchase 1250 shares of EZ CAR  
16 LEASING stock at the price of \$100.00 per share.

17 24. Later, in or about September 2007, ZIMMERMAN changed the language in the  
18 Stock Sale Agreements which increased the number of investors to whom the company would sell  
19 its stock from 5 to 6 investors. The cost of the company's stock also increased from \$100.00 to  
20 \$140.00 per share.

21 25. On at least one occasion, ZIMMERMAN asked EZ CAR LEASING'S shareholders  
22 to "amend" the percentage of stock each of them owned in order to make it appear that one investor  
23 owned more shares than the other investors. This was necessary so that the investor could obtain a  
24 vehicle dealer's license for EZ CAR LEASING.

27. ZIMMERMAN prepared monthly income and expense reports for EZ CAR LEASING'S shareholders. In at least one instance, an investor asked ZIMMERMAN to provide documentation to verify the information contained in his reports. However, ZIMMERMAN refused.

28. ZIMMERMAN informed investors that the proceeds from the sale of stock would be used by EZ CAR LEASING for operation of the business. In at least one instance, ZIMMERMAN did not use the funds he received from investors as capital to operate the business.

29. In all instances, ZIMMERMAN accepted investments from EZ CAR LEASING'S offerees and investors. However, in at least two instances ZIMMERMAN did not deposit the entire amount of the investments into the company's bank account but withheld a portion of the invested funds.

30. On at least one occasion, ZIMMERMAN transferred funds from EZ CAR LEASING'S bank account into his personal bank account.

31. To date, none of EZ CAR LEASING'S offerees and investors has received a monthly dividend disbursement (i.e. payment) for their investment.

## II.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

2. Respondent offered or sold securities within or from Arizona, within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

3. Respondent violated A.R.S. § 44-1841 by offering or selling securities that were neither registered nor exempt from registration.

1           4.       Respondent violated A.R.S. § 44-1842 by offering or selling securities while neither  
2 registered as a dealer or salesman nor exempt from registration.

3           5.       Respondent violated A.R.S. § 44-1991 by (a) employing a device, scheme, or  
4 artifice to defraud, (b) making untrue statements or misleading omissions of material facts, and (c)  
5 engaging in transactions, practices, or courses of business that operate or would operate as a fraud  
6 or deceit.

7           a.       ZIMMERMAN misrepresented to offerees and investors that they would  
8 receive a "monthly dividend disbursement" (i.e. payment) for their  
9 investments, when in fact none of EZ CAR LEASING'S shareholders have  
10 received a return on their investment.

11          b.       In at least two instances, ZIMMERMAN misled an offeree and investor to  
12 believe that EZ CAR LEASING was a viable and profitable business, when in  
13 fact the company was struggling financially.

14          c.       ZIMMMERMAN failed to inform offerees and investors that he was unable to  
15 obtain a vehicle dealer's license for EZ CAR LEASING, when in fact a  
16 vehicle dealer's license was necessary for ZIMMERMAN to operate the  
17 business.

18          d.       ZIMMERMAN'S monthly income and expense reports represented that EZ  
19 CAR LEASING had the funds necessary to meet the company's financial  
20 obligations, when in fact the company did not and frequently borrowed funds  
21 from its shareholders.

22          e.       ZIMMERMAN misrepresented to offerees and investors that their  
23 investments in EZ CAR LEASING would be used to pay the company's  
24 operating expenses, when in fact most of the invested funds were used for  
25 other purposes.  
26

7. Respondent's conduct is grounds for an order of restitution pursuant to A.R.S. § 44-2032.

8. Respondent's conduct is grounds for administrative penalties under A.R.S. § 44-2036.

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and Respondent's consent to the entry of this Order, attached and incorporated by reference, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondent, and any of Respondent's agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED that Respondent complies with the attached Consent to Entry of Order.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that ZIMMERMAN and P. ZIMMERMAN shall pay restitution to the Commission in the amount of \$120,000 in restitution. A payment of \$15,000 shall be made on the date of this Order. Any amount outstanding shall accrue interest at the rate of 10% per annum from the date of this Order until paid in full. Payment shall be made to the "State of Arizona" to be placed in an interest-bearing account controlled by the Commission. The Commission shall disburse the funds on a pro-rata basis to investors shown on the records of the Commission. Any restitution funds that the Commission cannot disburse because an investor refuses to accept such payment shall be disbursed on a pro-rata basis to the remaining investors shown on the records of the Commission. Any funds that the Commission



1 determines it is unable to or cannot feasibly disburse shall be transferred to the general fund of the  
2 state of Arizona.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that ZIMMERMAN and P.  
4 ZIMMERMAN shall pay an administrative penalty in the amount of \$50,000. Payment shall be  
5 made to the "State of Arizona." Any amount outstanding shall accrue interest at the rate of 10%  
6 per annum from the date of this Order until paid in full. For purposes of this Order, a bankruptcy  
7 filing by Respondent shall be an act of default.

8 If Respondent does not comply with this Order, any outstanding balance may be deemed in  
9 default and shall be immediately due and payable.

10 IT IS FURTHER ORDERED, that if ZIMMERMAN and P. ZIMMERMAN fail to comply  
11 with this order, the Commission may bring further legal proceedings against ZIMMERMAN and  
12 P. ZIMMERMAN, including application to the superior court for an order of contempt.

13 ...

14 ...

15 ...

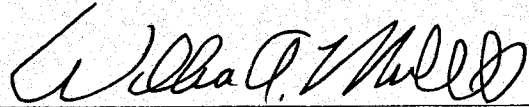


IT IS FURTHER ORDERED that this Order shall become effective immediately.

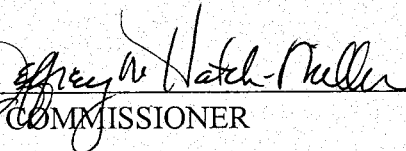
BY ORDER OF THE ARIZONA CORPORATION COMMISSION



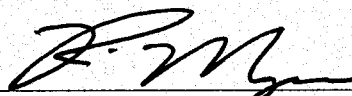
CHAIRMAN



COMMISSIONER



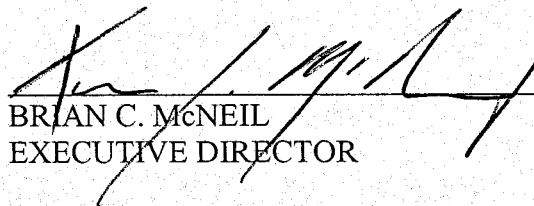
COMMISSIONER



COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL,  
Executive Director of the Arizona Corporation  
Commission, have hereunto set my hand and caused the  
official seal of the Commission to be affixed at the  
Capitol, in the City of Phoenix, this 21<sup>st</sup> day of  
August, 2008

  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Linda Hogan, ADA Coordinator,  
voice phone number 602-542-3931, e-mail [lhogan@azcc.gov](mailto:lhogan@azcc.gov).

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**CONSENT TO ENTRY OF ORDER**

1  
2 1. ZIMMERMAN ("Respondent") and P. ZIMMERMAN, individuals, admit the  
3 jurisdiction of the Commission over the subject matter of this proceeding. ZIMMERMAN and P.  
4 ZIMMERMAN acknowledge that they have been fully advised of their right to a hearing to present  
5 evidence and call witnesses and ZIMMERMAN and P. ZIMMERMAN knowingly and voluntarily  
6 waive any and all rights to a hearing before the Commission and all other rights otherwise  
7 available under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code.  
8 ZIMMERMAN and P. ZIMMERMAN acknowledge that this Order to Cease and Desist, Order of  
9 Restitution, Order for Administrative Penalties and Consent to Same ("Order") constitutes a valid  
10 final order of the Commission.

11 2. ZIMMERMAN and P. ZIMMERMAN knowingly and voluntarily waive any right  
12 under Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or  
13 extraordinary relief resulting from the entry of this Order.

14 3. ZIMMERMAN and P. ZIMMERMAN acknowledge and agree that this Order is  
15 entered into freely and voluntarily and that no promise was made or coercion used to induce such  
16 entry.

17 4. ZIMMERMAN and P. ZIMMERMAN acknowledge that Respondent has been  
18 represented by an attorney in this matter, ZIMMERMAN and P. ZIMMERMAN have reviewed  
19 this Order with their attorney, Alan Baskin of Bade & Baskin, and understand all terms it contains.

20 5. ZIMMERMAN and P. ZIMMERMAN neither admits nor denies the Findings of  
21 Fact and Conclusions of Law contained in this Order. ZIMMERMAN and P. ZIMMERMAN  
22 agree that they shall not contest the validity of the Findings of Fact and Conclusions of Law  
23 contained in this Order in any present or future administrative proceeding before the Commission  
24 or any other state agency concerning the denial or issuance of any license or registration required  
25 by the state to engage in the practice of any business or profession.  
26

1           6. By consenting to the entry of this Order, ZIMMERMAN and P. ZIMMERMAN  
2 agree not to take any action or to make, or permit to be made, any public statement denying,  
3 directly or indirectly, any Finding of Fact or Conclusion of Law in this Order or creating the  
4 impression that this Order is without factual basis. ZIMMERMAN and P. ZIMMERMAN will  
5 undertake steps necessary to assure that all of their agents and employees understand and comply  
6 with this agreement.

7           7. While this Order settles this administrative matter between the Respondents and the  
8 Commission, ZIMMERMAN and P. ZIMMERMAN understand that this Order does not preclude  
9 the Commission from instituting other administrative or civil proceedings based on violations that  
10 are not addressed by this Order.

11           8. ZIMMERMAN and P. ZIMMERMAN understand that this Order does not preclude  
12 the Commission from referring this matter to any governmental agency for administrative, civil, or  
13 criminal proceedings that may be related to the matters addressed by this Order.

14           9. ZIMMERMAN and P. ZIMMERMAN understand that this Order does not preclude  
15 any other agency or officer of the state of Arizona or its subdivisions from instituting  
16 administrative, civil, or criminal proceedings that may be related to matters addressed by this  
17 Order.

18           10. Respondent agrees that Respondent will not exercise any control over any entity  
19 that offers or sells securities or provides investment advisory services within or from Arizona until  
20 such time as all restitution and penalties under this Order are paid in full.

21           11. Respondent agrees that Respondent will not sell any securities in or from Arizona  
22 without being properly registered in Arizona as a dealer or salesman, or exempt from such  
23 registration; Respondent will not sell any securities in or from Arizona unless the securities are  
24 registered in Arizona or exempt from registration; and Respondent will not transact business in  
25 Arizona as an investment adviser or an investment adviser representative unless properly licensed  
26 in Arizona or exempt from licensure.

1           12.     Respondent agrees that Respondent will continue to cooperate with the Securities  
2 Division including, but not limited to, providing complete and accurate testimony at any hearing in  
3 this matter and cooperating with the state of Arizona in any related investigation or any other  
4 matters arising from the activities described in this Order. Said cooperation, however, shall not  
5 require a waiver of the Respondent's Fifth Amendment right against self-incrimination.

6           13.     ZIMMERMAN and P. ZIMMERMAN acknowledge that any restitution or  
7 penalties imposed by this Order are obligations of the Respondent as well as the marital  
8 community.

9           14.     ZIMMERMAN and P. ZIMMERMAN consent to the entry of this Order and agree  
10 to be fully bound by its terms and conditions.

11           15.     ZIMMERMAN and P. ZIMMERMAN acknowledge and understand that if they fail  
12 to comply with the provisions of the order and this consent, the Commission may bring further  
13 legal proceedings against Respondents, including application to the superior court for an order of  
14 contempt.

15           16.     ZIMMERMAN and P. ZIMMERMAN understand that default shall render  
16 ZIMMERMAN and P. ZIMMERMAN liable to the Commission for its costs of collection and  
17 interest at the maximum legal rate.

18           17.     ZIMMERMAN and P. ZIMMERMAN agree and understand that if they fail to  
19 make any payment as required in the Order, any outstanding balance shall be in default and shall  
20 be immediately due and payable without notice or demand. ZIMMERMAN and P. ZIMMERMAN  
21 agree and understand that acceptance of any partial or late payment by the Commission is not a  
22 waiver of default by Commission.

23  
24   
ERIC CHARLES ZIMMERMAN

25  
26   
PENELOPE ZIMMERMAN

1 STATE OF ARIZONA )  
2 County of *Maricopa* ) ss  
3 )

4 SUBSCRIBED AND SWORN TO BEFORE me this 1<sup>st</sup> day of August, 2008.  
5

*Cristina L. McDonald*  
6 NOTARY PUBLIC

7 My commission expires:  
8 May 14, 2009  
9

